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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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APR 30 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

95-172

In re Applications of)
RAINBOW BROADCASTING COMPANY)
For Extension of Construction Permit)
and for Consent to the Transfer of)
Control of the Permittee of)
Station WRBW(TV), Orlando, Florida)

File Nos. BMPCT-910625KP
and BTCCT-911129KT

TO: Roy J. Stewart, Chief
Mass Media Bureau

DOCKET FILE COPY ORIGINAL

Supplement to Informal Objections

Harry F. Cole

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Counsel for Press Broadcasting Company, Inc.

April 30, 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

1. Press Broadcasting Company, Inc. ("Press") hereby supplements its ~~Informal~~ Objections filed with respect to the two above-captioned applications. ^{1/} This Supplement is being filed in response to representations made to the Commission by Rainbow in its response to a letter (Ref. 1800E1-PRG), dated March 22, 1993, addressed to Rainbow from Clay C. Pendarvis, Chief, Television Branch. ^{2/} A copy of Mr. Pendarvis' letter is included as Attachment A hereto.

BACKGROUND

2. Because this matter has not been brought to the Commission's attention in more than a year, a brief review of its history may be helpful. Rainbow holds a construction permit for a new television station in Orlando, Florida. That permit was granted almost 10 years ago. See *Metro Broadcasting, Inc.*, 99 F.C.C.2d 688, 57 R.R.2d 440 (Rev. Bd. 1984). Because of intervening litigation, that grant technically did not become final until the latter part of 1990. ^{3/} Between the initial issuance of its permit and the end of 1990, Rainbow sought extensions of its permit, which were granted.

3. In January, 1991, with a final grant firmly in hand, Rainbow sought a further

^{1/} Press' previous pleadings include a "Petition for Reconsideration", filed February 25, 1991 with respect to the application (File No. BMPCT-910125KE) of Rainbow Broadcasting Company ("Rainbow") for extension of its construction permit of Station WRBW(TV), Orlando, Florida, an "Informal Objection", filed July 10, 1991 with respect to a second application (File No. BMPCT-910625KP) by Rainbow for extension of that permit, and an "Informal Objection and Request to Hold Application in Abeyance", filed January 7, 1992 with respect to Rainbow's application (File No. BTCCT-911129KT) for consent to transfer of control. All of Press' pleadings are presently pending.

^{2/} Rainbow's response to Mr. Pendarvis' letter was filed with the Commission on April 12, 1993. Curiously, it was not served on counsel for Press, even though Press has time and again placed Rainbow on notice of its interest in this matter. Indeed, Press was served with a copy of Mr. Pendarvis' letter, as clearly indicated on that letter. The Commission may draw whatever conclusions it may from Rainbow's failure to serve Press.

^{3/} As the Commission is well aware, the litigation underlying Rainbow's grant ultimately went to the Supreme Court in *Metro Broadcasting, Inc.*, 111 L.Ed. 445 (1990). The Court's decision in that case was issued on June 27, 1990. A petition for rehearing was filed, but that petition was denied in early October, 1990. That would therefore appear to be the last point at which it might reasonably be said that Rainbow's grant was anything but final. Rainbow, of course, has chosen to give itself an extra three months, claiming that finality must be calculated as of the December, 1990 issuance of the Supreme Court's mandate. Since Rainbow has not met even its own extended deadline, the plain error of Rainbow's self-serving calculation is inconsequential here.

extension of its permit. After relating the procedural history of the litigation concerning its grant, Rainbow asserted that

[a]ctual construction has been delayed by a dispute with the tower owner which is the subject of legal action.

See File No. BMPCT-910125KE, Exhibit 1, page 2.

4. Press objected to that further extension, demonstrating through, *inter alia*, sworn statements of Rainbow's own principal, Joseph Rey, that:

- (a) the "dispute" referred to in Rainbow's extension application -- a civil lawsuit brought by Rainbow against the owner of its transmitter site -- did *not* in any way impede Rainbow's ability to construct its facility at that site;
- (b) by Rainbow's own admission, Rainbow's failure to construct had been an exercise of Rainbow's own voluntary, independent economic judgment, and was *not* the result of any technical, practical or legal impediment;
- (c) notwithstanding its previous representations that it was financially qualified, Rainbow's claims in the civil lawsuit indicated that it was *not* in fact financially qualified to construct;
- (d) disclosures during the civil lawsuit demonstrated that Rainbow claimed to be relying on financing from a previously undisclosed source, to whom an equity interest in Rainbow had been offered in return for \$4,000,000 in funding;
- (e) other serious questions concerning Rainbow's basic and comparative qualifications were clearly apparent.

5. In its Opposition to Press' objection, Rainbow declined to address in any meaningful and substantive manner most of the arguments which Press had raised. For example, with respect to the question of Rainbow's financing, the totality of Rainbow's response was that

Press asserts that if Rainbow is exploring the possibility of equity financing, it must have "lost" its application financing. In short, Press relies solely upon surmise from its own speculation. Such a showing falls woefully short of the standard for *prima facie* showing embodied in either Rule 73.3584(b) or 1.229(b). Nothing precludes Rainbow from availing itself of alternative financing, a common occurrence for new stations.

"Rainbow Opposition to Press Petition for Reconsideration", filed March 12, 1991, at 7. This

carefully worded response was clearly intended to suggest to the Commission that, notwithstanding Rainbow's own acknowledgement, in the civil lawsuit, of a prospective equity participant (who would, on the basis of little more than a handshake, pump some \$4,000,000 into Rainbow), Rainbow still had "alternative financing" available to it.

6. In June, 1991, Rainbow sought a further extension of its permit. In that application Rainbow merely repeated its earlier claims, without offering any new explanations. But by that time Rainbow had lost the lawsuit which it had initiated against the owner of its transmitter site. As Press (but not Rainbow) advised the Commission, in June, 1991 the U.S. District Court rejected Rainbow's various claims, and in fact reached conclusions remarkably consistent with Press' assertions. Among Judge Marcus' conclusions are the following observations:

Rainbow has not arranged financing; a note for financing has not been completed. . . . [T]here is no convincing proof that Rainbow actually has financial backing. . . . At this point, Rainbow only owns a construction permit and a lease. The evidence illustrated that since 1982, Rainbow has yet to obtain financing, has not selected or purchased an antenna, not obtained building plans for a broadcast building and has not gone on the air.

Rey et al. v. Guy Gannet Publishing Co. et al., Case No. 90-2554-CIV-Marcus (S.D. Fl. June 6, 1991) at 14 (slip opinion). ^{4/}

7. Ignoring the growing weight of evidence against its repeated assertions, in its June, 1991 extension application Rainbow stated that

Rainbow [has] notified the tower owner of its intention to commence construction . . . and requested that the lease provisions regarding construction bids be effectuated. In addition, Rainbow has initiated discussions with equipment manufacturers regarding construction specifications and intends to place its equipment order as soon as the building construction schedule is finalized.

Rainbow will commence operation prior to December 31, 1992, as it previously informed the Commission.

^{4/} A copy of Judge Marcus' opinion was submitted to the Commission by Press on June 19, 1991 as a Supplement to its pending Petition for Reconsideration of the grant of Rainbow's January, 1991 extension application (File No. BMPCT-910125KE).

See File No. BMPCT-910625KP, Exhibit 1, page 2. From this last statement it may reasonably be inferred that Rainbow had established, in its own mind, its own construction deadline irrespective of any deadlines that the Commission might choose to set, and that Rainbow was determined to proceed on its own self-determined schedule. Importantly, Rainbow gave no indication whatsoever that its intent to proceed with construction was in any way contingent on favorable Commission action on anything -- indeed, at that point Rainbow was still six months away from filing the transfer of control application grant of which Rainbow now claims to be an essential condition precedent to commencement of construction. Again, Rainbow declined to respond to Press' various allegations, including the charge that Rainbow was not financially qualified and that Rainbow appeared to be guilty of misrepresentation, or at least lack of candor, to the Commission.

8. In November, 1991, with Press' various allegations still pending against it, Rainbow filed its above-captioned application for transfer of control. In that application Rainbow stated that it was

proposing a reorganization which will permit [Rainbow] to reduce its reliance on debt to complete construction and commence operation of [the station] by December 1992, by restructuring to admit nonvoting equity participants.

See File No. BTCCT-911129KT, Exhibit 1. This, of course, seems to have been designed to reinforce the "alternative financing" suggestion advanced by Rainbow earlier: after all, a reference to "reduc[ing] [Rainbow's] reliance on debt" can be read only to mean that Rainbow did, in fact, have debt financing then available to it.

9. Press objected to the transfer application as well, noting, *inter alia*, that the proposed transfer appeared to support Press' allegations concerning Rainbow's lack of financial qualifications, since the transfer application contemplated that Rainbow would be looking to its unidentified new equity holders to provide approximately 99% of Rainbow's funding. See affidavit

attached to Rainbow limited partnership agreement in File No. BTCCT-911112KT.^{2/} Press argued that, if Press' observations on this point were correct, then

if Rainbow's [transfer] application is not granted or, if granted, if Rainbow's plans for limited partnership investment fail, Rainbow appears to have no alternative source of funding. That being the case, Rainbow cannot legitimately claim itself to be financially qualified.

Press' Informal Objection and Request to Hold Application in Abeyance, filed January 7, 1992, at 4.

10. Rainbow opposed Press' objection again. Without offering any specific factual support (or even any declaration of any Rainbow principal), Rainbow simply denied Press' allegations. In so doing, Rainbow re-echoed its "alternative financing" theme, stating that

Rainbow has sought Commission approval of a short form transfer to permit it to rely upon equity financing instead of debt.

"Rainbow Opposition to Informal Objection and Request to Hold Application in Abeyance", filed January 30, 1992, at 3.

11. And there, for more than 15 months, the matter has stood at the Commission.

RAINBOW'S RECENT DISCLOSURE

12. In his letter, Mr. Pendarvis requested that Rainbow

provide a *detailed* explanation of what *specific* actions [Rainbow] ha[s] taken towards construction *since November 27, 1991*.

See Attachment A hereto (emphasis added). In light of that language, one might reasonably have expected Rainbow to have provided at least *some* information concerning its efforts during the last 17

^{2/} Rainbow's transfer application indicates that new equity to be infused into Rainbow will amount to approximately \$6,000,000, while the current principals of Rainbow will be credited with contributions amounting to \$60,000. But that \$60,000 is presumably the price which Rainbow has already paid for its portion of the transmitter building. In other words, it appears that Rainbow is looking to its proposed transfer of control to generate 100% of any remaining costs of construction and operation. As set out in Rainbow's transfer application, the person(s) who would advance those costs would supposedly be completely passive limited partners. Frankly, Press believes it unlikely (to say the least) that any person(s) advancing \$6,000,000 would be willing to assume a completely passive position with respect to that investment.

or so months to put its station on the air.

13. However, as might have been expected based on Rainbow's pattern thus far, Rainbow's response contains absolutely no "detailed" or "specific" information about *any* of Rainbow's activities after November 27, 1991 (the only possible exception being its statement that, on November 29, 1991, it filed its above-captioned transfer of control application^{6/}). The closest that Rainbow gets is its statement that it "has selected equipment" -- but it provides no indication of what particular equipment may have been "selected" or when that "selection" may have occurred. See Statement of Joseph Rey, attached to Rainbow's response, at 2. More importantly, Rainbow does not represent that any of the "selected equipment" has been ordered, much less installed.

14. In view of Rainbow's response (or lack thereof), it can safely be said that Rainbow has taken virtually no steps whatsoever in the last year and a half to construct its station.

15. Perhaps most importantly, though, Rainbow has now effectively conceded that, contrary to Rainbow's repeated protestations, Press was absolutely correct in its assessment of Rainbow's lack of financial qualifications. According to Mr. Rey's declaration which accompanies Rainbow's response to Mr. Pendarvis' letter,

[u]ntil the [transfer of control application] is acted upon, Rainbow cannot use the limited partnership funds to effect construction. . . . Release of [Rainbow's committed] funds is tied to F.C.C. approval of the transfer of the permit to Rainbow Broadcasting, Ltd. . . . In order to go forward, Rainbow requires favorable action on both pending requests [*i.e.*, the above-captioned applications].

This is precisely what Press asserted was the case in January, 1992:

^{6/} Perhaps to suggest that some construction has actually occurred, Rainbow also notes that "construction of [a] \$60,000 [transmitter] building had been completed" prior to November 27, 1991. That, of course, does not represent work which was completed *after* November 27, 1991, which was the specific focus of Mr. Pendarvis' letter. Moreover, undersigned counsel has been advised that the particular transmitter building to which Mr. Rey refers was in fact completed at the insistence of Press. As the Commission knows, Press' transmitter for Station WKCF(TV) is at the same site specified in Rainbow's permit. When it constructed the Station WKCF(TV) transmitting facility at that site, Press obviously had to have a structure to house its transmitter. The structure that was built was, according to Press officials, designed to accommodate the transmitters of both Press and Rainbow. Thus, Rainbow cannot claim that construction of its transmitter building is solely attributable to Rainbow.

if Rainbow's [transfer] application is not granted or, if granted, if Rainbow's plans for limited partnership investment fail, Rainbow appears to have no alternative source of funding. That being the case, Rainbow cannot legitimately claim itself to be financially qualified.

See ¶9, *supra*. Of course, at that time Rainbow labelled Press' assertions as "wholly unsupported speculations and inferences". ^{2/}

DISCUSSION

16. Section 73.3534(b) of the Commission's Rules establishes the conditions which must be satisfied by an applicant for extension of its permit. That rule permits extension of permits only upon a showing (a) that construction is complete, or (b) that substantial progress has been made (equipment is on order or on hand, site is acquired and cleared, and construction is proceeding towards completion), or (c) that no progress has been made due to circumstances clearly beyond the permittee's control. Obviously, Rainbow has failed to satisfy any of these criteria.

17. The first two standards are clearly not met, as Rainbow has not yet even begun construction, much less completed it or made any progress, substantial or otherwise, in the last 18 months. ^{3/} And the third standard is similarly not satisfied: no circumstances "clearly beyond [Rainbow's] control" have prevented it from going forward. By Rainbow's own admission in its civil lawsuit, Rainbow has at all times had access to its transmitter site. And, if Rainbow's various veiled remarks concerning "alternative financing" are to be credited, it has at all times had adequate funding

^{2/} It should be noted that neither in its transfer application nor in any other filing before or after that application (until its most recent submission) did Rainbow ever even hint that grant of that application was absolutely essential to construction of the station. Indeed, despite the fact that Press focused attention directly on that particular question, Rainbow refused to address it in any meaningful sense.

^{3/} In this regard it is important to note that Rainbow has held its construction permit already for almost ten years and that it has repeatedly represented to the Commission that it would have the station completed and in operation by the end of 1992. Those repeated representations were not conditioned by Rainbow on favorable action by the Commission on any applications.

commitments. There have been no impediments to construction.^{9/}

18. Of course, as became apparent in Rainbow's 1991 civil lawsuit, the *real* reason, by Rainbow's own admission, for Rainbow's failure to construct has been Rainbow's reluctance to enter the particular competitive environment of the Orlando television market. *See, e.g.,* Press' Petition for Reconsideration, filed February 25, 1991, Appendix at pages 8-9. But that is precisely the type of voluntary determination which the Commission has repeatedly found to be *insufficient* to justify an extension of a construction permit: where a permittee's failure to build is based on its own determination of various possible economic effects, no extension is granted. *See, e.g., New Orleans Channel 20, Inc.*, 100 F.C.C.2d 1401 (Mass Media Bureau 1985), *application for review denied*, 104 F.C.C.2d 304, 313 (1986), *aff'd sub nom. New Orleans Channel 20, Inc. v. FCC*, 830 F.2d 361 (D.C. Cir. 1987); *Community Service Telecasters, Inc.*, 69 R.R.2d 1608 (1991)^{10/}; *Panavideo Broadcasting, Inc.*, 69 R.R.2d 1333 (1991). It is therefore clear that Rainbow's extension application can and should be dismissed or denied for failure to satisfy the Commission's well-established standards for such applications.

19. In any event, Rainbow's application cannot be granted without a full hearing into Rainbow's conduct before the Commission. As demonstrated above, Rainbow has repeatedly engaged in misrepresentation and/or lack of candor in connection with its applications over the last several years.^{11/} It is equally clear that Rainbow cannot now claim to be financially qualified: if it had the

^{9/} Of course, if Rainbow did not, in fact have any "alternative financing", then Rainbow has been and remains financially unqualified. That would lead to precisely the same result: its application should be dismissed or denied.

^{10/} *Community Service Telecasters* is especially apposite here. In that case the permittee attempted to rely on a pending assignment application, and the assignee's firm commitment to construct, as justification for an extension of the permit. The Commission flatly rejected that argument. 69 R.R.2d at 1612. In the instant case, Rainbow is attempting to rely on essentially the same flawed justification.

^{11/} The most obvious misrepresentation is Rainbow's assertion that it had not constructed the station because of its "dispute" with the owner of its tower site. But that "dispute" had nothing at all to do with Rainbow's ability to
(continued...)

funds available to it, it could, should and would have constructed the station long ago. Instead, it is now arguing, for the first time, that it cannot go forward absent approval of its ownership structure which will permit it to raise funds.

20. The Court of Appeals has made clear in recent years that the Commission cannot simply ignore serious allegations concerning an applicant's qualifications. *See, e.g., Astroline Communications Company Limited Partnership v. FCC*, 857 F.2d 1556 (D.C. Cir. 1988); *David Ortiz Radio Corp. v. FCC*, 941 F.2d 1253 (D.C. Cir. 1991); *Weyburn Broadcasting Limited Partnership v. FCC*, No. 91-1378, 71 R.R.2d 1386 (D.C. Cir. 1993). Here, at a minimum, Press has presented the Commission with extraordinarily serious allegations which are supported by the conclusions of a Federal judge, by the statements of Rainbow itself, and by Rainbow's obvious pattern of conduct before the Commission. In response to this overwhelming showing, Rainbow has offered no substantive rebuttal at all. In light of all of these circumstances, in the unlikely event that the Commission declines simply to deny or dismiss Rainbow's extension application (and thus cancel its permit), the Commission can and must designate Rainbow's two above-captioned applications for hearing on the various issues which have been presented. ^{12/}

21. The bottomline here is that Rainbow has had a construction permit for some ten years. More than two years ago Rainbow boldly announced to the Commission that it had unilaterally

^{11/}(...continued)

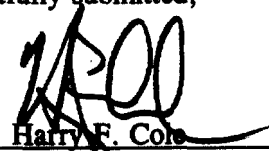
build, as Rainbow must have known. As the Court of Appeals has stated, "the fact of misrepresentation coupled with proof that the party making it had knowledge of its falsity' ordinarily suffices to demonstrate fraudulent intent." *David Ortiz Radio Corp. v. FCC*, 941 F.2d 1253 (D.C. Cir. 1988), quoting *Leflore Broadcasting Co. v. FCC*, 636 F.2d 454, 462 (D.C. Cir. 1980).

Similarly, Rainbow's repeated suggestions that it has been financially qualified are plainly inconsistent with both (a) Judge Marcus' contrary conclusion in his decision in the civil lawsuit and (b) Rainbow's admission in its most recent submission that, without a grant of its transfer of control application, the funds which it supposedly has committed to it cannot be released.

^{12/} If the Commission were to designate these applications for hearing, the Commission should also include in the designation order a forfeiture provision. In that way, if the issues are resolved adversely to Rainbow, the Commission will be in a position to levy an appropriate fine against Rainbow for its misconduct.

chosen December 31, 1992 (a date already well beyond the deadline established by the Commission) as the deadline for its construction and that it would construct the station and commence operation by that date. Rainbow placed no caveats or conditions on this unilaterally-selected deadline. Rainbow is now some four months beyond even that deadline, and construction has apparently not advanced at all in the last 18 months. From Rainbow's most recent submission, it may reasonably be concluded that Rainbow's failure to proceed is the result of lack of financial qualification. And Press has previously established, through Rainbow's own statements, that its failure to construct in 1991 was attributable to Rainbow's reluctance to attempt to compete in the Orlando market. These factors alone warrant rejection of Rainbow's applications and cancellation of its permit. Rainbow's continued and demonstrated willingness to play fast and loose with the truth merely underscores the correctness of that result.

Respectfully submitted,


/s/ Harry F. Cole
Harry F. Cole

Bechtel & Cole, Chartered
1901 L Street, N.W. - Suite 250
Washington, D.C. 20036
(202) 833-4190

Counsel for Press Broadcasting Company, Inc.

April 30, 1993

ATTACHMENT A

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

MAR 22 1993

IN REPLY REFER TO:

1800E1-PRG

Rainbow Broadcasting Company
c/o Margot Polivy, Esq.
Renouf & Polivy
1532 Sixteenth Street NW
Washington, DC 20036

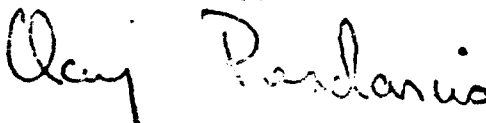
Re: Station WRBW(TV)
Orlando, FL
File No. BMPCT-910625KP

Dear Ms. Polivy:

This is with respect to the above-captioned application of Rainbow Broadcasting Company (Rainbow) for an extension of time to construct station WRBW(TV), Orlando, Florida. Press Television Corporation (Press), licensee of station WKCF(TV), Clermont, Florida, has filed an informal objection to the application.

By letter dated November 27, 1991, you stated that you expected to construct the station by December, 1992. However, it does not appear that construction has been completed. At this time, we cannot conclude that grant of the extension application would serve the public interest. We therefore request that you provide a detailed explanation of what specific actions you have taken towards construction since November 27, 1991. Accordingly, further consideration of your application will be deferred for 20 days to allow you the opportunity to respond.

Sincerely,



Clay C. Pendarvis
Chief, Television Branch
Video Services Division
Mass Media Bureau

cc: Harry F. Cole, Esq.

CERTIFICATE OF SERVICE

I, Harry F. Cole, hereby certify that on this 30th day of April, 1993, I have caused copies of the foregoing "Supplement to Informal Objections" to be placed in the United States mail, first class postage prepaid, addressed to the following individuals:

Roy J. Stewart, Chief (By Hand)
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 314
Washington, D.C. 20554

Barbara A. Kreisman, Chief (By Hand)
Video Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 702
Washington, D.C. 20554

Clay Pendarvis, Chief (By Hand)
Television Branch, Video Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 700
Washington, D.C. 20554

Margot Polivy, Esquire
Renouf & Polivy
1532 Sixteenth Street, N.W.
Washington, D.C. 20036
Counsel for Rainbow Broadcasting Company


/s/ Harry F. Cole
Harry F. Cole

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION

MODIFICATION OF CONSTRUCTION PERMIT

Commercial Television

(Class of station)

File No. BPCT-900702KK

Call Sign WRBW(TV)

Modification No.

Rainbow Broadcasting Company
151 Crandon Boulevard
Apartment 110
Key Biscayne, Florida 33149

Permittee: Rainbow Broadcasting Company

Station location: Orlando, Florida

Associated Broadcast station: N/A

The Authority Contained in Authorization File No. (BPCT-820909KF/BPCT-880711KE)
dated October 11, 1985 granted to the Permittee listed above is hereby modified in part as follows:

Authority to extend completion date to: January 31, 1991.

This modification of construction permit shall be attached to and be made a part of the construction permit of this station.

Except as herein expressly modified, the above-mentioned construction permit, subject to all modifications heretofore granted by the Commission, is to continue in full force and effect in accordance with the terms and conditions thereof and for the period therein specified.

Dated: July 31, 1990

mes

Mes

Issued: 08-08-90

FEDERAL
COMMUNICATIONS
COMMISSION



DUPLICATE

FCC Form 361
October 1978

FEDERAL COMMUNICATIONS COMMISSION



TELEVISION BROADCAST STATION CONSTRUCTION PERMIT

Official Mailing Address:

RAINBOW BROADCASTING COMPANY
1525 SOUTH OCEAN DR.
FT. LAUDERDALE, FL 33316

Authorizing Official:

Clay C. Pendarvis
Chief, Television Branch
Video Services Division
Mass Media Bureau

Call sign: WRBW

Grant Date:

MAY 24 1986

This permit expires 3:00 am.
local time: April 22, 1988

Permit File No.: BMPCT-860224KG

This permit modifies Permit No.: 820909KF

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

This permit shall be automatically forfeited if the station is not ready for operation within the time specified (date of expiration) or within such further time as the Commission may allow, unless completion of the station is prevented by causes not under the control of the permittee. See Sections 73.3598, 73.3599 and 73.3534 of the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of permittee:

RAINBOW BROADCASTING COMPANY

Station Location:

FL-ORLANDO

Frequency (MHz): 776.0 - 782.0

Carrier Frequency (MHz): 777.25 Visual 781.75 Aural

Call sign: WRBW

Permit No.: BMPCT-860224KG

Channel: 65

Hours of Operation: Unlimited

Transmitter location (address or description):

NEAR THE INTERSECTION OF STATE ROUTES 420 AND 419,
BITHLO, FL

Transmitter: Type accepted. See Sections 73.1660, 73.1665 and 73.1670
of the Commission's Rules.

Antenna type: (directional or non-directional): Directional

Desc: ANDREW ATW31H3.15DSC-65

Beam Tilt: .90 degrees electrical

Major lobe directions (degrees true): 215.0

Antenna coordinates: North Latitude: 28 34 51.0
West Longitude: 81 4 32.0

Transmitter output power: As required to achieve authorized ERP.

Maximum effective radiated power (kW): 5000 Visual

Height of radiation center above ground : 455.0 Meters

Height of radiation center above mean sea level : 475.0 Meters

Height of radiation center above average terrain: 465.0 Meters

Overall height of antenna structure above ground (including obstruction
lighting, if any) : 490.0 meters

Obstruction marking and lighting specifications for antenna structure:

It is to be expressly understood that the issuance of these specifications is in no way to be considered as precluding additional or modified marking or lighting as may hereafter be required under the provisions of Section 303(q) of the Communications Act of 1934, as amended.

Paragraph A, FCC Form 715-A (Nov. 1983):

There shall be installed at the top of the antenna structure a white capacitor discharge omnidirectional light which conforms to FAA/DOD Specification L-856, High Intensity Obstruction Lighting Systems. This light shall be mounted on the highest point of the structure. If the antenna or other appurtenance at its highest point is incapable of supporting the omnidirectional light, one or more such lights shall be installed on a suitable adjacent support with the lights mounted not more than 20 feet below the tip of the appurtenance. The lights shall be positioned so as to permit unobstructed viewing of at least one light from aircraft at any normal angle of approach. The light unit(s) shall emit a beam with a peak intensity around its periphery of approximately 20,000 candelas during daytime and twilight, and approximately 4,000 candelas at night.

Paragraph B, FCC Form 715-A (Nov. 1983):

There shall be installed at the top of the skeletal or other main support structure three or more high intensity light units which conform to FAA/DOD Specification L-856 High Intensity Obstruction Lighting Systems. The complement of units shall emit a white high intensity light and produce an effective intensity of not less than 200,000 candelas (daytime) uniformly about the antenna structure in the horizontal plane. The effective intensity shall be reduced to approximately 20,000 candelas at twilight, and to approximately 4,000 candelas at night. The light units shall be mounted in a manner to ensure unobstructed viewing from aircraft at any normal angle of approach, so that the effective intensity of the full beam is not impaired by any structural member of the skeletal framework. The units will normally be adjusted so that the center of the beam is in the horizontal plane.

Paragraph F, FCC Form 715-A (Nov. 1983):

At the approximate one-fifth, two-fifths, three-fifths and four-fifths levels of the skeletal tower there shall be installed three or more high intensity light units which conform to FAA/DOD Specification L-856, High Intensity Obstruction Lighting Systems. The complement of units shall emit a white high intensity light and produce an effective intensity of not less than 200,000 candelas (daytime) uniformly about the antenna structure in the horizontal plane. The effective intensity shall be reduced to approximately 20,000 candelas at twilight, and to approximately 4,000 candelas at night. The light units shall be mounted in a manner to ensure unobstructed viewing from aircraft at any normal angle of approach, so that the effective intensity of the full beam is not impaired by any structural member of the skeletal framework. The normal angular adjustment of the beam centers above the horizon shall be three degrees at the one-fifth level, two degrees at the two-fifths level, one degree at the three-fifths level and zero degrees at the four-fifths level.

Paragraph H, FCC Form 715-A (Nov. 1983):

All lights shall be synchronized to flash simultaneously at 40 pulses per minute. The light system shall be equipped with a light sensitive control device which shall face the north sky and cause the intensity steps to change automatically when the north sky illumination on a vertical surface is as follows:

1. Day to Twilight: Shall not occur before the illumination drops to 60 footcandles, but shall occur before it drops to 30 footcandles.
2. Twilight to Night: Shall not occur before the illumination drops to 5 footcandles, but shall occur before it drops to 2 footcandles.
3. Night to Day: The intensity changes listed in 1. and 2. above shall be reversed in transitioning from the night to day modes.

Paragraph I, FCC Form 715-A (Nov. 1983):

During construction of an antenna structure for which high intensity lighting is required, at least two lights shall be installed at the uppermost part of the structure. In addition, at each level where permanent obstruction lighting will be required, two similar lights shall be installed. Each temporary light shall consist of at least 1,500 candelas (peak effective intensity), synchronized to flash simultaneously at 40 pulses per minute. Temporary lights shall be operated continuously, except for periods of actual construction, until the permanent obstruction lights have been installed and placed in operation. Lights shall be positioned to ensure unobstructed viewing from aircraft at any normal angle of approach. If practical, the permanent obstruction lights may be installed at each level as the structure progresses. NOTE: If battery operated, the batteries should be replaced or recharged at regular intervals to preclude failure during operation.

Paragraph 3.0, FCC Form 715 (March 1978):

There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 620- or 700-watt lamps (PS-40, Code Beacon type), both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute with a period of darkness equal to approximately one-half of the luminous period.

Paragraph 10.1, FCC Form 715 (March 1978):

On levels at approximately eight-elevenths, six-elevenths, four-elevenths and two-elevenths of the over-all height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event these beacons cannot be installed in a manner to insure unobstructed visibility of the beacons from aircraft at any normal angle of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

Paragraph 19.1, FCC Form 715 (March 1978):

On levels at approximately ten-elevenths, nine-elevenths, seven-elevenths, five-elevenths, three-elevenths and one-eleventh of the over-all height of the tower at least one 116- or 125-watt lamp (A21/TS) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the structure.

Paragraph 21.0, FCC Form 715 (March 1978):

All lighting shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

IN ACCORDANCE WITH ABOVE PARAGRAPHS A,B,F,H,I, OR
3,10.1,19.1,21 (NIGHT) AND A,B,F,H,I, (DAY)

APPLICATION FOR NEW BROADCAST STATION LICENSE
(Carefully read instructions before filling out Form)

RETURN ONLY FORM TO FCC

Approved by C
3080-2023
Expires 3/30/95

SCMELLON JUN 17 1994
For Commission Fee Use Only

DUPLICATE

Ref Room

For Commission Fee Use Only

FEE NO:

FEE TYPE:

FEE AMT:

D SEC:

For Applicant Fee Use Only

Is a fee submitted with this application? ☒ Yes ☐ No

If No, indicate reason therefor (check one box)

☐ Nonfeeable application

Fee Exempt (See 47 C.F.R. Section 1.1112)

☐ Noncommercial educational licensee

☐ Governmental entity

SECTION 1 - GENERAL DATA

For Commission Use Only

File No. BLCT-940617KI

Legal Name of Applicant RAINBOW BROADCASTING, LTD.	Mailing Address		
	6349 Oak Meadow Bend		
	City Orlando	State FL	Zip Code 32819
	Telephone No. (include area code) 407.774.7850		

1. Facilities authorized by construction permit

This application is for:



Commercial



Noncommercial



AM Directional



AM Non-Directional



FM Directional



FM Non-Directional



TV

Call Letters WRBW (TV)	Community of License Orlando	Construction Permit File No. BPCT-820909KF	Modification of Construction Permit File No(s) BMPCT-931213KE BMPCT-860224KG	Expiration Date of Last Construction Permit May 23, 1995
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2. Is the station now operating pursuant to automatic program test authority in accordance with 47 C.F.R. Section 73.1620? ☒ Yes ☐ No

If No, explain.

3. Have all the terms, conditions, and obligations set forth in the above described construction permit been fully met? ☒ Yes ☐ No

If No, state exceptions.

4. Apart from the changes already reported, has any cause or circumstance arisen since the grant of the underlying construction permit which would result in any statement or representation contained in the construction permit application to be now incorrect? ☐ Yes ☒ No

If Yes, explain.

5. Has the permittee filed its Ownership Report (FCC Form 323) or ownership certification in accordance with 47 C.F.R. Section 73.3515(b)? ☒ Yes ☐ No

If No, explain.

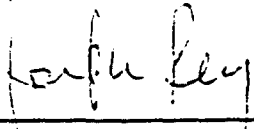
☐ Does not apply

The APPLICANT hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as set out in full in the application.

CERTIFICATION

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name of Applicant RAINBOW BROADCASTING, LTD.	Signature 
Title President, General Partner	Date June 15, 1994

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT,
U.S. CODE, TITLE 18, SECTION 1001.

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, engineers, and applications examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information. Your response is required to obtain the requested authorization.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

SECTION II-C

License Application Engineering Data - TV Broadcast

Name of Applicant

Rainbow Broadcasting, Limited

1. Facilities authorized in construction permit

Call Sign WRBW	Channel No. 65	File No. of Construction Permit BMPCT-931213KE BPCT-860224KG	Frequency Band 776-782 MHz	Carrier Frequency Visual 777.25 MHz Aural 781.75 MHz
Maximum Effective Radiated Power (visual) in dBk: 36.99 in kW: 5000				Antenna height above average terrain 465 Meters

2. Station location (principal community)

State Florida	City or Town Orlando
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3. Transmitter location

State Florida	County Orange	City or Town Bithlo	Street Address (or other identification) Near the intersection of State Routes 420 and 419
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4. Main Studio location

State Florida	County Orange	City or Town Bithlo	Number and Street Near the intersection of State Routes 420 and 419
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5. Operating constants - Visual transmitter (peak)

Transmitter power output (after vestigial sideband filter, if used, and after multiplexer, if combined) 20.22 dBk	105.2 kW	Multiplexer loss in dB, if separate N/A dB	Input to transmission line 20.22 dBk
Transmission line power loss 0.912 dB	Antenna input power 19.31 dBk	Maximum antenna power gain 17.68 dB	Maximum effective radiated power 36.99 dBk 5000 kW

Does the transmitter comply with 47 C.F.R. Section 73.1660?

☒ YES☐ NO

If No, describe fully in Exhibit No. _____

6. Antenna, Transmission Line and Multiplexer

Antenna make and type No. SWR, SWHPS32EC/65	Maximum power gain 17.68 dB	Average (RMS) horizontal plane power gain 11.12 dB
Elevation of the top of antenna supporting structure above ground (including antenna and all other appurtenances and lighting, if any) 490.4 Meters	Height of antenna radiation center above ground 455.1 Meters	Height of antenna radiation center above mean sea level 474.9 Meters

Geographical Coordinates of antenna (NAD1927)

North Latitude 28° 34' 51" West Longitude 81° 04' 32"

Is a directional antenna used?

☒ YES☐ NO

Is electrical or mechanical beam tilting employed?

☒ YES☐ NO

If either a directional antenna or one employing beam tilt is used, and the radiation patterns differ from those on file with the construction permit application, give full details in Exhibit No. N/A See BMPCT-931213KE

Transmission Line

Make SWR	Type No. WR1400	Coaxial or waveguide Waveguide
Size (nominal inside transverse dimensions) 18 x 36 centimeters	Length 477 Meters	Power loss for this length 0.912 dB

Multiplexer

Make N/A	Type No. N/A	Loss (if not included in transmitter power output) Visual N/A dB Aural N/A dB
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7. Frequency measurements

Measured visual carrier frequency (specify at least to nearest 100 Hz) 777,249,544 Hz

Measured aural carrier center frequency (specify at least to nearest 100 Hz) 781,749,510 Hz

Give date measurements made and method used or frequency measurement service employed.

June 8, 1994 Tektronix TDC-10

8. Performance Data

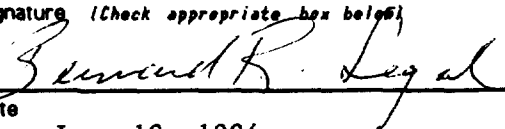
Have equipment performance measurements been taken in accordance with 47 C.F.R. Section 73.1590, demonstrating compliance with the Commission's transmission standards and transmission system requirements, and are those measurements available for submission to the Commission upon request?

☒ YES ☐ NO

If No, explain.

9. In what respect, if any, does the apparatus constructed differ from that described in the application for construction permit or in the permit? Waveguide is shorter than anticipated. Transmitter output power has been adjusted to compensate for changed waveguide efficiency.

I certify that I represent the applicant in the capacity indicated below and that I have examined the foregoing statement of technical information and that it is true to the best of my knowledge and belief.

Name (Please Print or Type) Bernard R. Segal	Signature (Check appropriate box below) 
Address (Include ZIP Code) P. O. Box 18415 Washington, DC 20036-8415	Date June 10, 1994
	Telephone No. (Include Area Code) 202-659-3707

☐ Technical Director

☒ Registered Professional Engineer

☐ Chief Operator

☐ Technical Consultant

☐ Other (specify)